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EXAMINER

CHU, HELEN OK

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YONG-TAE KIM, SU-SUK CHOI,
YUN-SUK CHOI, and KYOUNG-HEE LEE

Application 10/664,157
Technology Center 1700

Mailed: May 29, 2009

Before PAULA CONN, *Paralegal Specialist*
CONN, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETING APPEAL

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on June 27, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter(s) requiring attention prior to docketing is identified below.

Appellants' Appeal Brief filed on August 17, 2007, states on page 2, under the heading *Status of Claims* that “[c]laims 1-19 and 21-25 have been rejected and are being appealed. Under the *Grounds of Rejection to be Reviewed on Appeal* heading on page 3 states:

claims 1-7, 9-17, and 19-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,961,672 issued to Skotheim, et al. (“Skotheim”) in view of U.S. Patent No. 6,245,458 issued to Sotomura (“Sotomura”), claims 8 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Skotheim in view of Sotomura in further view of JP Publication 10-101793 to Zuiho et al. (“Zuiho”), and claims 24 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Skotheim in view of Sotomura in further view of U.S. Patent 5,523,179 issued to Chu (“Chu”) and U.S. Patent 6,030,719 issued to Fauteux et al. (“Fauteux”).

The Examiner's Answer mailed on November 13, 2007, on page 2 under the heading *Status of Claims* states that “[t]he statement of the status of claims contained in the brief is correct.” However, under the heading *Grounds of Rejection* the following grounds of rejection are listed:

Claims 1-7, 9-17, 19-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Skotheim et al. (US patent 5,961,672) in view of Sotomura (US Patent 6,245,458 B1).

Claims 8 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Skotheim et al. (US patent 5,961,672) in view of Sotomura (US Patent 6,245,458 B1) as applied to claims 6, in further view of Zuiho et al. (JP Publication 10-101793).

Claims 24 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Skothiem et al. (US Patent 5,961,672) in view of Sotomura (US patent 6,245,458) in further view of Chu (US Patent 5,523,179) as evidence by Fauteux et al. (US Patent 6,030,719).

It is noted that Appellants and the Examiner has include claim 20, which was canceled in an Amendment filed after the Final Rejection on May 25, 2007, in which the Examiner's Advisory Action mailed on June 12, 2007, stating that the amendment will be entered?

Clarification of the status of the claims and the grounds in which they are rejected under is required.

An in-depth review of the Examiner's Answer mailed November 13, 2007, under the heading "Evidence Relied Upon" the Examiner listed "Skotheim (US Patent 5,961,672), Sotomura (US Patent 6,245,458), Fauteux (US Patent 6,030,719) and Zuiho (JP 10-101793)". A review of the file reveals that reference to Chu (US Patent 5,523,179) was applied to the statement of rejections in the Ground of Rejection, paragraph (9), page 5 of the Examiner's Answer. Before further review, the Examiner must submit a corrected Examiner's Answer that will include in the Evidence Relied Upon section, the list of all references mentioned in the statement of rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02. Appropriate correction is required.

Accordingly, it is ORDERED that the application is returned to the Examiner to

- 1) for a determination regarding the status of claim 20, if necessary, hold the Appeal Brief filed August 17, 2007, defective and notify

Appellants to file a supplemental Appeal Brief with clarification of the status of all claims and the grounds in which they are rejected under;

2) to vacate the Examiner's Answer mailed November 13, 2007, and issue a revised Examiner's Answer with clarification of the status of claim 20 and the grounds in which it is rejected under and to include all references in the Evidence Relied Upon that was relied upon in the grounds of rejection; and

3) for such further action as may be appropriate.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

pgc

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